

## **REMARKS**

Claims 216-219, 221, and 223-233 are pending in this Application. Claims 216 and 233 have been amended to indicate that the cover comprises “an upper cover portion and a lower cover portion that are removably attached to one another” and that the second bifurcated conduit portion extends between the removably attached upper cover portion and the lower cover portion. Support for such amendments can be found throughout the Specification including the drawing. See, for example, page 12, lines 8-10, page 21, lines 6-8, page 43, lines 26-30, page 45, lines 17-19, page 53, lines 3-4, and Figures 3, 6, and 14. No new matter has been added.

### **Double Patenting Rejections**

Claims 216-219, 221 and 223-233 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over (i) Claims 1-32 of copending Application No. 12/073,984 (ii) Claims 21-40 of copending Application No. 11/653,121 (iii) Claims 21-40 of copending Application No. 11/455,364, and (iv) Claims 1-29 of copending Application No. 12/073,985.

Since none of the claims of these copending applications have been allowed, Applicants respectfully request this issue be deferred until allowable subject matter is indicated at which time an appropriate terminal disclaimer will be filed, if necessary.

### **Rejection Under 35 U.S.C. §103(a)**

Claim 216, 217, 219, 221, and 223 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over United Kingdom Patent Application Publication No. GB 2 217 165 by Maruyama et al. (the “Maruyama et al. Patent Application”) in view of U.S. Patent No. D416,102, issued to Schulman et al. (the “Schulman et al. Design Patent”) and U.S. Patent No. 5,555,676 issued to Lund (the “Lund Patent”).

Claims 224 and 233 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over the Maruyama et al. Patent Application in view of the Schulman et al. Design Patent and the Lund Patent as applied to Claim 216 and further in view of U.S. Patent Publication No. 2002/0184820 filed by Mauney (the “Mauney Patent Application”).

Claims 225-228, 230, 231, and 232 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over the Maruyama et al. Patent Application in view of the Schulman et al. Design Patent, and the Lund Patent as applied to Claim 216 and further in view of U.S. Patent

No. 4,584,791, issued to Wolf (the “Wolf Patent”) and U.S. Patent No. 4,403,443 issued to Valente (the “Valente Patent”).

Claims 229 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over the Maruyama et al. Patent Application in view of the Schulman et al. Design Patent and the Lund Patent and further in view of the Wolf Patent and the Valente Patent as applied to Claim 216 and 225, further in view of U.S. Patent No. 4,976,064, issued to “Young et al.” [sic] (the “‘064 Patent”). It should be noted U.S. Patent No. 4,976,064 is issued to Julien and not to Young et al. as stated in the Office Action. A clarification is requested regarding this inconsistency.

It is well established law that the combination of the cited references must lead to the claimed invention in order for the obviousness rejection to be proper. As discussed in detail below, it is submitted that various combinations of cited references do not lead one skilled in the art to the presently amended claims.

Without commenting on the merits of various other elements cited in the Office Action, and the Applicants reserve the rights to present such argument if and when it becomes necessary, it is submitted that none of the cited references disclose a cover that comprises “an upper cover portion and a lower cover portion that are removably attached to one another.” Furthermore, none of the cited references disclose a conduit that extends between the removably attached upper cover portion and the lower cover portion.

As discussed previously, it appears that upon close reading of the Maruyama et al. Patent Application, the upper cover portion and the lower cover portion of the Maruyama et al. Patent Application referred to in the Office Action is not a cover but at best a “nutrient supply tray assembly.” See page 5, line 37, to page 6, line 5 of the Maruyama et al. Patent Application. If this is what the Examiner has intended to be the “upper and the lower cover portions”, it is submitted that the “cover” in the Maruyama et al. Patent Application does NOT comprise an upper cover portion that is removably attached to a lower cover portion. Furthermore, the conduit in the Maruyama et al. Patent Application is NOT formed between the removably attached upper cover portion and the lower cover portion.

And none of the other cited references make up the deficiencies of the Maruyama et al. Patent Application.

In view of the above, it is clear that the various combinations of the cited references do not lead one skilled in the art to the devices of the presently pending claims. Accordingly,

Applicants respectfully submit that rejections under 35 U.S.C. §103(a) are improper and request that all the rejections under 35 U.S.C. §103(a) be withdrawn.

### CONCLUSION

In view of the foregoing, Applicants submit that all claims now pending in this Application are in condition for allowance. Therefore, an early Office Action to that effect is earnestly solicited. If the Examiner believes a telephone conference would aid in the prosecution of this case in any way, please call the undersigned at (303) 955-8103.

Respectfully submitted  
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